THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.10158 OF 2002

DATED: 24-04-2006

BETWEEN

Anil Kumar Jaiswal,

S/o. Late Indra Prasad Jaiswal,

R/o. Himayathnagar,

Hyderabad

...PETITIONER

AND

Municipal Corporation of Hyderabad,

Rep. by its Commissioner,

Tank Bund Road,

Hyderabad and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in seeking to deprive his house property situated at Himayathnagar, Hyderabad for the purpose of widening of road as otherwise than in due process of law as illegal and arbitrary.

Learned counsel for the petitioner submits that petitioner is the owner and possessor of the

property bearing H.No.3-6-615 to 621, situated at Himayathnagar, Hyderabad having inherited the same from his ancestors and using the said property for residential purpose.
He further submits that though the existing road from Himayathnagar is very much sufficient and there is absolutely no traffic congestion for passersby, the said road is sought to be widened to make it 100 feet road and in the said process the property of the petitioner is getting affected. He further submits that though the respondents have issued a notice dated 29.05.2000 showing the portion affected, no compensation has been paid so far and the consent of the petitioner is also not obtained. While so, after a period of two years on 06.06.2002, the respondents visited the premises of the petitioner and threatened to demolish the portion show in the notice.

The learned counsel further submits that the respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, are threatening to demolish the premises of the petitioner, which action is utter violation of principles of natural justice as well as Sections 146 and 147 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of the private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish the structures or take away any portion of the property of the petitioner and not to dispossess him without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

The writ petition is accordingly disposed of. No costs.

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V. ESWARAIAH, J

April 24, 2006

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